

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
NORTHERN DIVISION

FILED
U.S. DISTRICT COURT
DISTRICT OF MARYLAND

2009 DEC -9 P 3:19

THE JOHNS HOPKINS UNIVERSITY and
ARROW INTERNATIONAL, INC.,

Plaintiffs-Counterclaim Defendants,

v.

DATASCOPE CORPORATION,

Defendant-Counterclaim Plaintiff.

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Civil Action Nos. 1:05-cv-00759 WDQ
1:06-cv-02711 WDQ

Judge Quarles

FINAL JUDGMENT ON REMAND

Plaintiffs-counterclaim defendants The Johns Hopkins University ("JHU") and Arrow International, Inc. ("Arrow") having filed complaints in these consolidated actions alleging that the use of products sold by defendant-counterclaim plaintiff Datascope Corporation ("Datascope") known as the PROLUMEN infringed U.S. Patent Nos. 5,766,191, 6,824,551, and 7,108,704, each of said patents being owned by JHU and exclusively licensed to Arrow, and alleging that Datascope actively induced and contributed to the infringement of such patents through the sale of the PROLUMEN products; and

Datascope having filed answers as well as counterclaims seeking declaratory judgments of noninfringement, invalidity, and unenforceability as to U.S. Patent Nos. 5,766,191, 6,824,551, and 7,108,704; and

This Court having entered an original judgment on June 15, 2007, on a jury verdict reciting that Datascope had actively induced infringement and had contributed to the infringement of claim 1 of U.S. Patent No. 5,766,191, claims 16, 17, 27, and 34 of U.S. Patent No. 6,824,551, and claims 1, 3-7, and 15-18 of U.S. Patent No. 7,108,704, and awarding damages of \$690,875; and

JHU and Arrow having filed a motion to alter or amend the judgment to include a permanent injunction; and Datascope having filed motions for judgment as a matter of law or, in the alternative, for a new trial, on the issues of noninfringement and invalidity; and

The Court having conducted a bench trial on July 25, 2007, regarding Datascope's unenforceability defenses and counterclaims, and JHU and Arrow having moved for judgment on partial findings as to such issues; and

This Court having entered a Memorandum Opinion and Order on August 9, 2007, in which, *inter alia*, the Court denied Datascope's motions for judgment as a matter of law or, in the alternative, for a new trial on the issues of noninfringement and invalidity, granted the motion by JHU and Arrow to alter or amend the judgment to enjoin Datascope from advertising, manufacturing, selling, and/or distributing the PROLUMEN devices, granted JHU's and Arrow's motion for judgment on partial findings as to unenforceability, and deemed such order to be a final judgment; and

Datascope having moved this Court to stay execution of the money judgment pursuant to Fed. R. Civ. P. 62(d); and this Court having entered an order on October 22, 2007, directing Datascope to post a *supersedeas* bond in the amount of \$836,708.54 within seven days of such order, and staying execution on the money judgment upon entry and approval of said bond; and

Datascope having filed a *supersedeas* bond issued by the Fidelity and Deposit Company of Maryland in the amount of \$836,708.54 on October 25, 2007; and this Court having issued an order on October 26, 2007, approving the foregoing *supersedeas* bond; and

Datascope having appealed the judgment of this Court to the United States Court of Appeals for the Federal Circuit; and

The Court of Appeals having issued an Opinion and Judgment on October 2, 2008, reversing this Court's denial of Datascope's motion for judgment of noninfringement as a matter

of law and remanding to this Court for entry of a final judgment in favor of Datascope consistent with the appellate court's opinion, and concluding that it need not reach the issues of obviousness and unenforceability in view of its disposition of the appeal; and

JHU and Arrow having petitioned for rehearing and rehearing *en banc*, and the Court of Appeals having denied such petition on November 10, 2008, and having issued its judgment of reversal and remand as a mandate on November 17, 2008; and the mandate of the Court of Appeals for the Federal Circuit having been filed in this Court on November 19, 2008;

Now, therefore, pursuant to the mandate of the Court of Appeals, it is hereby finally ORDERED, ADJUDGED, and DECREED that:

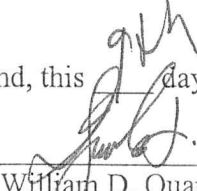
1. Judgment is entered in favor of Datascope as the prevailing party and against JHU and Arrow on the complaints herein and those portions of Datascope's counterclaims for declaratory judgment insofar as they seek a judgment of noninfringement.

2. Datascope has not infringed and is not infringing U.S. Patent Nos. 5,766,191, 6,824,551, and 7,108,704.

3. Datascope's counterclaims, insofar as they seek declarations that U.S. Patent Nos. 5,766,191, 6,824,551, and 7,108,704 are invalid and/or unenforceable, are dismissed for lack of a continuing case or controversy.

4. The *supersedeas* bond posted by Fidelity and Deposit Company of Maryland is hereby released.

SO ORDERED at Baltimore, Maryland, this 9th day of December, 2008.



William D. Quarles, Jr.
United States District Judge